

# **Exhibit 1**



**Service of Process  
Transmittal**

06/02/2020

CT Log Number 537737382

**TO:** Becky Sullwold  
POLARIS, INC.  
2100 Highway 55  
Medina, MN 55340-9770

**RE: Process Served in Minnesota**

**FOR:** Polaris Industries Inc. (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

<b>TITLE OF ACTION:</b>	ESTATE OF TUCKER WESTFALL, ET AL., PLTFS. vs. POLARIS INDUSTRIES INC., ET AL., DFTS.
<b>DOCUMENT(S) SERVED:</b>	-
<b>COURT/AGENCY:</b>	None Specified Case # 2020CV000279
<b>NATURE OF ACTION:</b>	Subpoena - Insurance Records
<b>ON WHOM PROCESS WAS SERVED:</b>	CT Corporation System, Inc, Saint Paul, MN
<b>DATE AND HOUR OF SERVICE:</b>	By Process Server on 06/02/2020 at 15:03
<b>JURISDICTION SERVED :</b>	Minnesota
<b>APPEARANCE OR ANSWER DUE:</b>	None Specified
<b>ATTORNEY(S) / SENDER(S):</b>	None Specified
<b>ACTION ITEMS:</b>	CT has retained the current log, Retain Date: 06/02/2020, Expected Purge Date: 06/07/2020  Image SOP  Email Notification, Becky Sullwold becky.sullwold@polaris.com  Email Notification, Jody Rusch Jody.Rusch@polaris.com
<b>SIGNED:</b>	CT Corporation System, Inc
<b>ADDRESS:</b>	208 South LaSalle Street Suite 814 Chicago, IL 60604
<b>For Questions:</b>	866-331-2303 CentralTeam1@wolterskluwer.com

STATE OF WISCONSIN

CIRCUIT COURT

MARATHON

Estate of Tucker Westfall et al vs. Polaris Industries Inc. et al

Electronic Filing  
NoticeCase No. 2020CV000279  
Class Code: Wrongful Death

FILED

05-27-2020

CLERK OF CIRCUIT  
COURT

MARATHON COUNTY

2020CV000279

Honorable Jill N Falstad

Branch 1

POLARIS INDUSTRIES INC.  
1010 DALE STREET NORTH  
C/O CT CORPORATION SYSTEM INC.  
SAINT PAUL MN 55117

Case number 2020CV000279 was electronically filed with/converted by the Marathon County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

**Pro Se opt-in code: 7fd94c**

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 715-261-1300.

Marathon County Circuit Court  
Date: May 27, 2020

FILED

05-27-2020

CLERK OF CIRCUIT  
COURTMARATHON COUNTY  
2020CV000279

Honorable Jill N Falstad

Branch 1

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_\_

MARATHON COUNTY

ESTATE OF TUCKER WESTFALL,  
c/o Co-Special Administrators,  
Tracy Westfall and Dale Westfall  
600 Allen Street  
Athens, Wisconsin 54411,

Case No.: 20-CV-\_\_\_\_\_  
Case Codes: 30100 – Product Liability  
30105 – Wrongful Death

TRACY WESTFALL,  
600 Allen Street  
Athens, Wisconsin 54411,

and

DALE WESTFALL,  
600 Allen Street  
Athens, Wisconsin 54411,

Plaintiffs,

v.

POLARIS INDUSTRIES INC.  
c/o C T Corporation System Inc.  
1010 Dale Street North  
Saint Paul, Minnesota 55117-5603,

ABC COMPANY,  
A fictitious company,

and

DEF INSURANCE COMPANY,  
A fictitious company,

Defendants.

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**SUMMONS**

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THE STATE OF WISCONSIN

To each person named above as a defendant:

You are hereby notified that the plaintiffs named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is Marathon County Courthouse, 500 Forest Street, Wausau, Wisconsin 54403-5554, and to Davczyk & Varline, LLC, the plaintiffs' attorneys, whose address is 1400 Merrill Avenue, P.O. Box 1192, Wausau, Wisconsin 54402-1192. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future and may also be enforced by garnishment or seizure of property.

Dated this 27<sup>th</sup> day of May, 2020, in Wausau, Wisconsin.

**DAVCZYK & VARLINE, LLC,**  
Attorneys for Plaintiffs, Estate of Tucker Westfall,  
Tracy Westfall, and Dale Westfall

By: Electronically signed by Daniel W. Varline

Daniel W. Varline  
State Bar No. 1024016  
Marissa A. Reynolds  
State Bar No. 1097399

**P. O. ADDRESS**

Davczyk & Varline, LLC

1400 Merrill Avenue

P.O. Box 1192

Wausau, WI 54402-1192

Ph.: 715-675-7777

Fax: 715-675-8888

[dvarline@dvlawoffice.com](mailto:dvarline@dvlawoffice.com)

FILED

05-27-2020

CLERK OF CIRCUIT  
COURT

MARATHON COUNTY

2020CV000279

Honorable Jill N Falstad

Branch 1

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_\_

MARATHON COUNTY

ESTATE OF TUCKER WESTFALL,  
c/o Co-Special Administrators,  
Tracy Westfall and Dale Westfall  
600 Allen Street  
Athens, Wisconsin 54411,

TRACY WESTFALL,  
600 Allen Street  
Athens, Wisconsin 54411,

Case No.: 20-CV-\_\_\_\_\_  
Case Codes: 30100 – Product Liability  
30105 – Wrongful Death

and

DALE WESTFALL,  
600 Allen Street  
Athens, Wisconsin 54411,

Plaintiffs,

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POLARIS INDUSTRIES INC.  
c/o C T Corporation System Inc.  
1010 Dale Street North  
Saint Paul, Minnesota 55117-5603,

ABC COMPANY,  
A fictitious company,

and

DEF INSURANCE COMPANY,  
A fictitious company,

Defendants.

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**COMPLAINT**

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**NOW COME** the above-named plaintiffs, Estate of Tucker Westfall, Tracy Westfall, and Dale Westfall, by and through their attorneys, Davczyk & Varline, LLC, and as and for their Complaint against the defendants, allege and show to the Court as follows:

**JURISDICTIONAL AND BACKGROUND FACTS**

1. That, the plaintiff, Tucker Westfall, deceased, through his co-Special Administrators, Tracy Westfall, 600 Allen Street, Athens, Marathon County, Wisconsin, and Dale Westfall, 600 Allen Street, Athens, Marathon County, Wisconsin, was a minor resident of the State of Wisconsin, date of birth May 16, 2003, who resided at 600 Allen Street, Athens, Marathon County, Wisconsin at the time of his death and was the son of plaintiffs Tracy Westfall and Dale Westfall.

2. That, the plaintiff, Tracy Westfall, is an adult resident of the State of Wisconsin residing therein at 600 Allen Street, Athens, Marathon County, Wisconsin, and is the co-Special Administrator for the plaintiff, Estate of Tucker Westfall.

3. That, the plaintiff, Dale Westfall, is an adult resident of the State of Wisconsin residing therein at 600 Allen Street, Athens, Marathon County, Wisconsin, and is the co-Special Administrator for the plaintiff, Estate of Tucker Westfall.

4. That, the plaintiffs, Tracy Westfall and Dale Westfall, are the natural, custodial parents and lineal heirs of minor child Tucker Westfall, date of birth May 16, 2003, who died on June 2, 2018 in Marathon County, Wisconsin.

5. That, the defendant, Polaris Industries Inc., is a corporation organized under the laws of the State of Delaware with a principal place of business located at 2100 Highway 55, Medina, Minnesota 55340 and a registered agent for service of process of C T Corporation System Inc., 1010 Dale Street North, Saint Paul, Minnesota 55117-5603, and, at all times material hereto, was in the business of, among other things, manufacturing, selling, and distributing powersports



products and vehicles, including Utility Task Vehicles/Utility Terrain Vehicles (UTVs) such as the Polaris Ranger XP 900 to Wisconsin, throughout the United States and the world. Further, Polaris Industries, Inc. is engaged in substantial and not isolated activities within the State of Wisconsin, and its products, materials and/or things processed, serviced and/or manufactured by Polaris Industries Inc. are used and/or consumed within the State of Wisconsin in the ordinary course of trade, including the sale of products for recreational and farm use. Further, Polaris Industries Inc. carries on solicitation and service activities within the State of Wisconsin, has authorized dealers within the State of Wisconsin, communicates, advertises and sells to customers within the State of Wisconsin and otherwise avails itself of the privileges of conducting activities within Wisconsin and thus invokes the benefits and protections of its laws. As a result, Polaris Industries, Inc. has business activities within the State of Wisconsin and purposefully establishes minimum contacts and expects to be subject to jurisdiction in the State of Wisconsin.

6. That, the defendant, ABC Company, is a fictitious company doing business within the State of Wisconsin, and at all times material hereto was in the business of, among other things, manufacturing, selling, distributing, testing and/or servicing powersports products and vehicles, including Utility Task Vehicles/Utility Terrain Vehicles (UTVs) such as the Polaris Ranger XP 900, and is being designated by a fictitious name pursuant to Wis. Stat. § 807.12 because their true name is unknown but will be substituted if and when it becomes available.

7. That, the defendant, DEF Insurance Company, is a fictitious insurance company doing business within the State of Wisconsin, and at all times material hereto, had in full force and effect, one or more applicable policies of insurance to Polaris Industries Inc. and/or ABC Company indemnifying them for the liability herein alleged, and is being designated by a fictitious name pursuant to Wis. Stat. § 807.12 because their true name is unknown but will be substituted if and when it becomes available.

8. That, prior to June 2, 2018, defendant Polaris Industries Inc. and/or ABC Company manufactured, sold, and distributed a Polaris Ranger XP 900 Utility Task Vehicle/Utility Terrain Vehicle, Vehicle Identification No. 3NSRTE875FG872271, Model Year: 2015, Make: Polaris, Body Type: RGR-15, 900 XP, PS, SS. GRAY, with Engine Model: 1204974 and Engine Serial No. 0120497453073 (hereinafter the "Polaris Ranger XP 900").

9. That, on or about June 2, 2018, Tucker Westfall was operating the Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) on a designated ATV/UTV road, Silver Leaf Road in the Town of Johnson, Marathon County, Wisconsin when the Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) unexpectedly and without warning lost control and overturned, causing Tucker Westfall to suffer personal and fatal injuries and causing the plaintiffs, Estate of Tucker Westfall, Tracy Westfall, and Dale Westfall to incur damages, including, but not limited to, the loss and society and companionship of their son, funeral and burial expenses, medical expenses, and other economic or financial damages.

**FIRST CAUSE OF ACTION: STRICT LIABILITY UNDER WIS. STAT. § 895.047**

10. Reallege and incorporate by reference herein paragraphs 1-9 of this Complaint as if fully set forth herein.

11. That, the Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) was defective and flawed and presents foreseeable risks because it contained a manufacturing defect, which includes, but may not be limited to, a defective power steering system and speed control sensors/systems and electronic power steering system, was defective in the design of its electronic power steering system, and/or was defective because of inadequate instructions and warnings prior to or at the time of failure.

12. That, the Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) was in defective condition when it left the possession and control of defendant Polaris Industries Inc. and/or ABC Company.

13. That, the Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) in its defective condition was unreasonably dangerous to a user or consumer of the product.

14. That Polaris Industries, Inc., prior to the subject accident, was aware or should have been aware of the defect in its product due to customer complaints and the involvement of the Consumer Product Safety Commission.

15. That, the defective Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) was a cause and substantial factor of the death of Tucker Westfall and the injuries and damages sustained by the plaintiffs, Estate of Tucker Westfall, Dale Westfall, and Tracy Westfall, including, but not limited to, the loss and society and companionship of their son, funeral and burial expenses, medical expenses, and other economic or financial damages.

16. That, defendant Polaris Industries Inc. and/or ABC Company are engaged in the business of manufacturing, selling, and distributing the Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) and such Utility Task Vehicles/Utility Terrain Vehicles, and the manufacture, sale, and distribution of the Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) is not an isolated or infrequent transaction not related to the principal business of Polaris Industries Inc. and/or ABC Company.

17. That, the Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) UTV was one which defendant Polaris Industries Inc. and/or ABC Company expected to and did reach the user or consumer without substantial change in the condition it was in when Polaris Industries Inc. and/or ABC Company sold and distributed it.

**SECOND CAUSE OF ACTION: COMMON-LAW NEGLIGENCE**

18. Reallege and incorporate by reference herein paragraphs 1-17 of this Complaint as if fully set forth herein.

19. That, upon information and belief, the subject Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) incident on or about June 2, 2018 was the result of the negligent acts and omissions and the failure to exercise ordinary care on the part of defendant Polaris Industries Inc. and/or ABC Company in the design, testing, manufacturing, and/or inspection of the Polaris Ranger XP 900 (VIN: 3NSRTE875FG872271) and its speed control system and electronic power steering system as well as the failure to repair, service or recall the product based on prior issues and customer complaints.

20. That, as a proximate result of the negligence of the defendant Polaris Industries Inc. and/or ABC Company, Tucker Westfall sustained fatal injuries and the plaintiffs, Estate of Tucker Westfall, Tracy Westfall, and Dale Westfall incurred damages, including, but not limited to, the loss and society and companionship of their son, funeral and burial expenses, medical expenses, and other economic or financial damages, and will incur damages into the future.

**WHEREFORE**, the plaintiffs, Estate of Tucker Westfall, Tracy Westfall, and Dale Westfall, demand judgment against the defendants as follows:

- a. For damages to compensate the plaintiffs for the injuries and damages alleged herein;
- b. For costs, disbursements, and attorney fees of this action;
- c. For all other damages allowed by law; and
- d. For any and all other relief the Court deems just and equitable.

**DEMAND IS HEREBY MADE FOR A TRIAL BY JURY OF TWELVE (12).**

Dated this 27<sup>th</sup> day of May, 2020, in Wausau, Wisconsin.

**DAVCZYK & VARLINE, LLC,**  
Attorneys for Plaintiffs, Estate of Tucker Westfall,  
Tracy Westfall, and Dale Westfall

By: Electronically signed by Daniel W. Varline

Daniel W. Varline  
State Bar No. 1024016  
Marissa A. Reynolds  
State Bar No. 1097399

**P. O. ADDRESS**

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